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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,416	02/08/2001	Toni Ostergard	309-009896-US(PAR)	9776

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EXAMINER

VIEAUX, GARY

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 07/27/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,416

Applicant(s)

OSTERGARD, TONI

Examiner

Gary C. Vieaux

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figures 1a, 4a, 4b and 4c should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lens assembly employed to achieve zoom functionality must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The attempt to incorporate subject matter into this application by reference to <http://www.mems.engr.wisc.edu> on page 7 is improper because embedded hyperlinks and/or other forms of browser-executable code may not minimize the public's burden in searching for and obtaining copies of documents incorporated by reference which may not be readily available. The attempt to incorporate subject matter into the patent application by reference to a hyperlink and/or other forms of browser-executable code is considered to be an improper incorporation by reference. Please see MPEP 608.01(p) paragraph I regarding incorporation by reference.

Claim Objections

5. Claims 1-12 are objected to because of the following informalities:

Claim 1 recites the limitation "said lens" on page 9 lines 17-18; there is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "said MEMS" on page 9 line 21; there is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "said MEMS" on page 9 line 25; there is insufficient antecedent basis for this limitation in the claim.

Claim 4 is objected to as being dependent upon an objected to base claim, but would be allowable if minor informality of the base claim was corrected.

Claim 5 recites the limitation "said MEMS" on page 9 line 33; there is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said lens system" on page 10 lines 11, 12 and 19; there is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitations "said communication system" on page line 26, "said MEMS" on page 11 line 2, and "said lens" on page 11 lines 7-8; there is insufficient antecedent basis for these limitations in the claim.

Claim 8 recites the limitation "said MEMS" on page 11 line 12; there is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said MEMS" on page 11 line 18; there is insufficient antecedent basis for this limitation in the claim.

Claim 10 is objected to as being dependent upon an objected to base claim, but would be allowable if minor informality of the base claim was corrected.

Claim 11 recites the limitation "said MEMS" on page 11 line 28; there is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "said lens system" on page 12 lines 6, 7, and 14; there is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Allowable Subject Matter

6. Claims 1-12 are in condition for allowance but for the objected to minor informalities relating to insufficient antecedent basis. In regards to the subject matter of claims 1-12, the prior art does not teach or fairly suggest a digital camera system or a mobile communication device which employs a micro-mechanical (MEMS) system to move an image sensor in relation to a fixed lens, to generate a digital image.

7. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

8. This application is in condition for allowance except for the following formal matters:

Correction of the drawings to reflect Prior Art status;

Correction of improper incorporation by reference;

Correction of insufficient antecedent basis within the claim language.

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9. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
10. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

"Electrostatic Linear Microactuator Mechanism for Focusing a CCD Camera" by Koga, et al. Journal of Lightwave Technology, vol. 17, no. 1, January 1999, discloses a micro-electromechanical device employed to focus the lens of digital camera.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieaux whose telephone number is 703-305-9573. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary C. Vieaux
Examiner
Art Unit 2612

Gcv2


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
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